

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 16, 2009

\_\_\_\_\_  
No. 08-10877  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

PETE DIAZ

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:08-CR-1-2  
\_\_\_\_\_

Before SMITH, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Pete Diaz presents arguments that he concedes are foreclosed by *United States v. Brown*, 920 F.2d 1212, 1216-17 (5th Cir. 1991), *abrogated on other grounds by United States v. Candia*, 454 F.3d 468, 472-73 (5th Cir. 2006), which held that a district court may order a term of imprisonment to run consecutively with an unimposed state

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

sentence. The appellant's unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.